

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CLAUDIA GAYLE, Individually, On  
Behalf of All Others Similarly  
Situated as Class Representative,

Plaintiffs,

- against -

HARRY'S NURSES REGISTRY, INC., and  
HARRY DORVILIER a/k/a HARRY  
DORVILIEN,

Defendants.

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Plaintiffs brought this action against defendants for unpaid overtime wages under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 et seq. On August 23, 2013, this Court filed a Report and Recommendation addressing the plaintiffs' motion for attorneys' fees, as well as the parties' cross-motions to amend the judgment. See ct. doc. 206. Plaintiffs have moved for a supplemental report and recommendation to increase the amount of costs awarded. See ct. doc. 207.

DISCUSSION

Although the plaintiffs had requested an award of \$6,878.73 for various costs incurred during the course of this litigation, this Court recommended in the Report and Recommendation an award

of costs of only \$2,460.29. This Court recommended disallowance of plaintiffs' request of \$4,418.44 for the costs incurred by the claims administrator in mailing the notices of pendency and consent forms. This Court noted that plaintiffs failed to submit an invoice or other documentation from the claims administrator and did not provide any reason for the amount requested, which this Court found to be high since notice was sent to fewer than 500 people.

In their instant motion, plaintiffs have provided an invoice from the claims administrator and pointed to their original explanation that the administrator charged increased costs for having to retype labels due to defendants' lack of cooperation. The increased cost claimed for retyping the labels was \$1,428.00, in addition to a set \$2,500 fee for services and costs. While this Court recognizes that plaintiffs' counsel may have actually paid the claims administrator for all fees charged, this Court finds that \$1,428.00 is too much to charge for retyping approximately 500 labels. Therefore, I respectfully recommend that the Court award additional costs of \$3,490.44 for the following items charged by the claims administrator: \$2,500 for the negotiated fee, \$500 in additional costs for typing 500 labels and \$490.44 for costs of mailing and printing.

#### CONCLUSION

For the foregoing reasons, I grant the plaintiffs' motion to supplement my original Report and Recommendation and respectfully

recommend that the Court award plaintiffs costs of \$5,951.27, an increase of \$3,490.44 from the \$2,460.29 originally recommended in the Report and Recommendation. Accordingly, I also amend the recommendation as to item (3) in the penultimate paragraph of the Report and Recommendation (with respect to the judgment entered on September 19, 2012) as follows: "(3) the judgment should be amended to include an award of attorneys' fees to plaintiffs' counsel in the amount of \$127,754.17 and costs of \$5,951.27." See ct. doc. 206 at 28.

A copy of this Supplemental Report and Recommendation will be filed and sent electronically to the parties on this date. Objections to this Supplemental Report and Recommendation must be filed with the Clerk of Court, with a copy to the Honorable Nicholas G. Garaufis, by September 13, 2013. This Court also extends the time to file objections to the Report and Recommendation to September 13, 2013 so that objections to the Report and Recommendation and this Supplemental Report and Recommendation may be made in one document. Failure to file objections within the time specified waives the right to appeal. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

**SO ORDERED.**

Dated: Brooklyn, New York  
August 26, 2013

\_\_\_\_\_/s/  
MARILYN D. GO  
UNITED STATES MAGISTRATE JUDGE